Scott. II-27—45,006—18-12-28.

Law (1933) Department General

MG SERIES.

G.O. No. 3344

DATED 12 10 - 33

[Despatch Abstract.]

Lottery - Prosecution - Ponkra Pujari - Mangalore town - South Kanara district - sanctioned.

1

Lfnd: 4041A
6-X-33

Ref. C1--3993--M--33.

South Kanara Dt. Magistrate's Office,
Mangalore, dated 4th October 1933.

From

E. M. Gawne, Esq, I.C.S.,
District Magistrate,
South Kanara.

To

The Secretary to Government,
Law (General) Department,
Madras.

Sir,

Lottery--South Kanara District--Mangalore--Prosecution--Ponkra Pujari--sanction--sought.

The District Superintendent of Police has reported that one Ponkra Pujari of Kudrolli, Mangalore Town organised a lottery for the sale of a gold chain weighing 3½ sovereigns by means of printed tickets. He did not obtain the sanction of Government for conducting it. He sold about 200 tickets at Re.0- 8- 0 each to the general public and collected very much more money than the value of the gold chain. The lottery was actually drawn on 10th January 1932 in the house of Poovappa Pujari as advertised in the ticket. The winning ticket was drawn by one Durgamma but Ponkra Pujari did not hand over the jewel to her and consequently there was a Civil suit No. 496/32 before the Kasba Bazaar anchayat Court filed and decreed against him. Ponkra Pujari however got the decree cancelled by filing a revision before the District Munsiff Mangalore, who held that a lottery was in the nature of a wagering contract and therefore not enforceable in law.

2. It is obvious that the object of Ponkra Pujari was nothing but fraud practised on the public. The Public Prosecutor, Mangalore, whom I consulted, is of opinion that a conviction would

be secured against Ponkra Pujari under the second part of section 294 (A) I.P.C. if he is prosecuted. I request that Government may be pleased to accord sanction for the prosecution of the said Ponkra Pujari for an offence under section 294 (A) I.P.C.

2. I enclose in original the District Police Superintendent's letter, the form tickets seized by him, the [illegible] the District Munsiff's order in revision and the Manchere Public Prosecutor's letter for favour of reference and return.

Your obedient servant,

[signature]

[illegible].

Copy of pages 8-10 c.f.

From the Public Prosecutor, South Kanara, Mangalore, No. Cr. 13/33, dated 30/9/33, to the D.M., South Kanara.

Subject.- Lottery - Sale of gold necklace by printed tickets - Ponkra Pujary - Prosecution under sec. 294 A, I.P.C. - Opinion submitted.

Your letter Ref. Cl. 3993-M/33, dated 22/9/33.

Under the first part of sec. 294-A whoever keeps any office or place for the purpose of drawing any lottery not authorised by Govt. shall be punished. I find in this case the tickets contain publication to this effect :-

"On 10/1/32, Sunday, tickets will be drawn in Poovappa's house .... at Urwa, near the market.
Sd. Kudroli Ponkra."

On a strict construction of the ticket it would appear that Poovappa is the person who has kept the office or place for drawing the lottery and Kudroli Ponkra is the person who advertises this fact.

It also would appear that the words "keeps any office or place" imports that the keeping must be habitual and the drawing of one lottery will not constitute the offence of keeping a lottery. There is support in I.L.R. 50 Madras 696 Full Bench for this view.

The next consideration is whether the offence is punishable under the second part of sec. 294-A, which lays down that "whoever publishes any proposal to pay any sum or deliver any goods on the event or contingency applicable to the drawing of any ticket."

The question is whether there is a publication of any proposal.

Except the sale of tickets, there are no handbills or pamphlets published, setting forth a promise that the drawer of the lucky ticket will be paid a prize.

In the case before us, the facts I take it are that tickets are sold over the printed name of Kudroli Ponkra and I take it that tickets are sold by Ponkra himself. The ticket contains the following printed matter :-

Ticket No. Date ....
One 3½ soverign neck chain
Received annas eight from .....
Ticket will be drawn on 10/1/1932, Sunday, in the house of Povappa, residing near the Urwa market,
Sd. Kudroli Ponkra.

The

The question is whether the writing on this ticket constitutes publication of any proposal to delivery any goods. Of course, the gold chain must be regarded as goods.

There does not seem to be perfect unanimity in the view of the several High Courts and Chief Courts in India. In A.I.R. 1926 Sindh, page 213, it has been held that a mere delivery of a lottery ticket is not necessarily the publication of a proposal within the meaning of 294-A and that if in a lottery ticket, it is stated that the price if any, due on the number of ticket will be paid, the ticket should be held to contain a proposal inviting persons to take part in the lottery and by acquiring the ticket the purchaser or acquirer accepts the proposal.

This view is dissented from in a case reported in A.I.R.1930 Lahore page 81 where it has been held that when the ticket books of a lottery were delivered with a view to the ~~xx~~ tickets therein being sold to others, the delivery is a sufficient publication under the second part of sec. 294-A.

Advertising a sale of tickets of an/unauthorised lottery is held to be not an offence under sec. 294-A, as it is not a publication to deliver any goods to the successful tickets required under sec. 294-A (vide 25 Bombay I.L.R. 968. A.I.R. 1926 Bom. 26).

In A.I.R. 1933 Cal., 332, advertising the sale of Irish Sweepa/Stakes tickets is held to be an offence under sec. 294-A. The case reported in 63 M.L.J. at page 554 supports the view that the writing on the ticket concerned in this case comes within the four corners of sec. 294-A. Another case reported in the same Law Journal at page 917 also supports this view.

Under these circumstances, I am of opinion that a conviction could be secured against Ponkra Pujary under the second part of Sec. 294-A.

The concerned papers and the tickets are herewith returned.

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Law (Gpl.) Dept.

Lottery - South Kanara District -
Poukara Pujari - Prosecution

L Cno. 4041/A
6

From the D.M. South Kanara, Rc 1.3993-M.33
dy 7.10.33.

A.S.

The Public Prosecutor, S. Kanara, is of opinion that a conviction of Poukara Pujari can be secured under the second part of section 294 (A), I.P. The D.M. recommends that the sanction of the Govt. may be accorded in the case. This is almost similar to the case referred to in Gp. No. 4450 Kg. dy 13.12.1932.

X on 10.10

p. 2

(2)

If it is decided to sanction the prosecution of Poukara Pujari the draft order below is for approval

Gpo
9.10.33
CAW
7/10

BJR
Gpo
J
Law
10/10/33.

C2. mrs 11.10.33

SECRETARY TO GOVERNMENT OF MADRAS
11 OCT 1933
GENERAL DEPARTMENT

Sectt. 11-5 (a)

Law (GI) DEPARTMENT.

	Date.	Initials
When received for Fair-copying	25/12	
When copied		
When examined		
When signed		
When despatched		

Lottery - Prosecution - Poonkra Pujari - Mangalore Town, South Kanara district - Sanctioned.

READ AGAIN G.O. No. ....., dated ..... 19 .

" " " ..... " ..... 19 .

READ ALSO :—

C No. 4041A From the S.N. S. Kanara Ref., No. C-I. 3993 dated 4-10-1933.
M-33

" " ..... " " ..... " ..... " ..... 19 .

" " ..... " " ..... " ..... " ..... 19 .

3344
3344 12/10/33

ORDER. No. ....., dated ..... 19 .

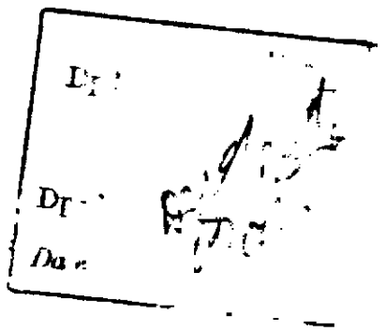
HJ

1. I.C.F.
2. P.-10-4

Whereas the Govt. have received information that Poonkra Pujari of Kudroli, Mangalore Town, South Kanara district, solicited a proposal for holding a lottery, not authorised by Govt. for the disposal of a golden chain, His Excellency the Governor in Council, under the provisions of Section 196 of the Code of Criminal Procedure, 1898, hereby sanctions the prosecution of the said

Poukka Pujari for an offence under Section 294-A of the Indian Penal Code in respect of the said lottery.

2. The I.G. of Police is requested to depute a suitable officer to prefer a complaint under the above-mentioned section against the said Poukka Pujari



To

The D.M., South Kanara (with duplicate copy of para 1 only signed by the Secy. and Rs 3-10 CF in cash to be sent by regd post. Keep copy of Rs 8-0 CF).

The IG of Police (with two copies - one with para 1 only)

The Public Prosecutor, South Kanara (Complete G.O.) (copy to the Publicity Secy) do

Do

Note Fair copies to be attached for Secretary's signature.

Received ... 1933. Registered ... 1933.

Abstract.

Lottery - Prosecution - Sankra Pujari - Bangalore town, South Canara District - Sanctioned.

Law (General) Department.

G.O. No. L. 2044 Dated 10th October 1933.

Read the following.-

From the District Magistrate, South Canara, Ref. No. C.1. 2098/33-33, dated the 4th October 1933.

Order.-

Whereas the Government have received information that Sankra Pujari of Mudralli, Bangalore Town, South Canara District, published a proposal for holding a lottery, not authorised by Government, for the disposal of a gold chain, His Excellency the Governor in Council, under the provisions of Section 196 of the Code of Criminal Procedure, 1898, hereby sanctions the prosecution of the said Sankra Pujari for an offence under Section 294-A of the Indian Penal Code in respect of the said lottery.

The Inspector-General of Police is requested to direct a Gazetted Officer to prefer a complaint under the above mentioned section against the said Sankra Pujari.

(By Order of the Governor in Council)

Secretary to the Government of Madras, Law (General) Department.

To the District Magistrate, South Canara, with enclosures.

" Inspector-General of Police.

" Public Prosecutor, South Canara.

Copy to the Public (Police) Department.

(F. 30.

Police **DEPARTMENT.**

Lgnl: 20 A
9.1.34

Received ..... 19 *Registered* 19

Subject.

Lottery- Prosecution- Ponkra Pujari- Mangalore Town, South Kanara district-

Law (Genl) Dept
Loose and Sketches with
(K) Gono 3344 Law (Genl) 87
12.10.33.
WS 10.1.34
BBR

Enclosures.
No. .....
.....
Spare copies .....

Doc No. 17/1180/Stat(1)/33

Station Madras *Dated the* 8th January 1934

From (Name) Sir Charles B. Cunningham, Kt., C.S.I.
(Designation) Inspector-General of Police, Madras.

To The Secretary to the Government of Madras,
Law (General) Department.

Sir,

(K)

Ref: G.O.No.Ms.3344, Law (General)Department, dated 12th October 1933.

I have the honour to state that a complaint was laid against Ponkra Pujari under Section 294(A) Indian Penal Code by the Inspector of Police, Mangalore circle, before the Stationary Sub-Magistrate, Mangalore, on 30th October 1933. The accused pleaded guilty and was convicted and sentenced to pay a fine of Rs.10/- by the Stationary Sub-Magistrate, Mangalore, on 18th December 1933 in his C.C.No.553/33.

I have the honour to be,
Sir,
Your most obedient servant,

for Inspr.-Genl.of Police.

Tss.6-1-34